UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/656,020	09/05/2003	Paul Joseph McArdle	G&C 30566.255-US-U1	8147

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GATES & COOPER LLP		MORRISON, JAY A
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

PTOL-90A (Rev. 04/07)

		Application No.	Applicant(s)	
Office Action Summary		10/656,020	MCARDLE ET AL.	
		Examiner	Art Unit	
		Jay A. Morrison	2168	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address --*

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _07 May 2007_.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-30_ is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-30_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All   b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)

2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4) ☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____ .

5) ☐ Notice of Informal Patent Application

6) ☐ Other: _____.

DETAILED ACTION

Remarks

1.   Claims 1-30 are pending.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of

the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of

the various claims was commonly owned at the time any inventions covered therein

were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was

not commonly owned at the time a later invention was made in order for the examiner to

consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g)

prior art under 35 U.S.C. 103(a).

3.   Claims 1-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Bondy et al. ('Bondy' hereinafter) (Publication Number 2002/0191219) in view of Halpert

et al. ('Halpert' hereinafter) (Publication Number 2004/0225958).

As per claim 1, <u>Bondy</u> teaches

A computer-implemented method for defining a project in a computer graphics program comprising: (see abstract and background)

(a) obtaining a project file in the computer graphics program comprising general information regarding the project; (project, paragraph [0018])

(b) creating a directory structure in the computer graphics program for the project wherein: (set up directory structure, paragraph [0018])

(i) one or more project drawing files are organized into various folders by drawing file type of the one or more project drawing files; (stored in folders, paragraph [0019])

(ii) the one or more project drawing files are composed of either a building information model for the project or a report generated from the building information model; (template, paragraph [0020]) and

(iii) the one or more project drawing files are organized into the various folders based on the building information model or the report accordingly; (stored in repository, paragraph [0020])

(c) obtaining a companion file for each project drawing file, wherein each companion file provides information used to create the directory structure (set up directory structure and resources stored into folders in accordance with the configuration file, paragraph [0018]-[0019]) and comprises information to link each project drawing file to the project based on the building information model or the report; (tags to identify resources, paragraph [0019]).

Bondy does not explicitly indicate "(d) displaying, in the computer graphics program on a display device, the one or more project drawing files in the various folders".

However, Halpert discloses "(d) displaying, in the computer graphics program on a display device, the one or more project drawing files in the various folders" (viewer, paragraph [0096]; figure 8).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Bondy and Halpert because using the steps of "(d) displaying, in the computer graphics program on a display device, the one or more project drawing files in the various folders" would have given those skilled in the art the tools give a visual representation of the project structure. This gives the user the advantage of being able to view the project structure.

As per claim 2, Bondy teaches

the general information is selected from a group consisting of: a project name; a project number; a project level; a project division; a first default template for a new element; a second default template for a new construct; a third default template for a new view; and a fourth default template for a new sheet. (data, paragraph [0019])

As per claim 3, Bondy teaches

the project drawing file comprises an extensible markup language (XML) document. (paragraph [0018])

As per claim 4, <u>Bondy</u> teaches

the companion file comprises an extensible markup language (XML) file.
(paragraph [0018])

As per claim 5, <u>Bondy</u> teaches

the various folders comprise: an elements folder for element type drawing files

within the building information model; a constructs folder for construct type drawing files

within the building information model; a views folder for view type drawing files for the

report; and a sheets folder for sheet type drawing files for the report. (directory

structure, paragraph [0019])

As per claim 6,

<u>Bondy</u> does not explicitly indicate "the element type drawing file comprises a set

of geometry, wherein the set of geometry is repeated one or more times throughout a

project".

However, <u>Halpert</u> discloses "the element type drawing file comprises a set of

geometry, wherein the set of geometry is repeated one or more times throughout a

project" (paragraph [0084]).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine <u>Bondy</u> and <u>Halpert</u> because using the steps of "the

element type drawing file comprises a set of geometry, wherein the set of geometry is

repeated one or more times throughout a project" would have given those skilled in the

art the tools reuse work previously completed. This gives the user the advantage of

saving time by reusing work.

As per claim 7, Bondy teaches

the construct type drawing file comprises: an identification of geometry and data

for a particular level/wing and category of the project; and one or more elements.

(paragraph [0030])

As per claim 8,

Bondy does not explicitly indicate "the view type drawing file automatically

assembles appropriate constructs to represent a portion of a project that has been

selected based upon user specified data"

However, Halpert discloses "the view type drawing file automatically assembles

appropriate constructs to represent a portion of a project that has been selected based

upon user specified data" (paragraph [0092]).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine Bondy and Halpert because using the steps of "the

view type drawing file automatically assembles appropriate constructs to represent a

portion of a project that has been selected based upon user specified data" would have

given those skilled in the art the tools to reuse work previously completed. This gives

the user the advantage of saving time by reusing work.

As per claim 9, <u>Bondy</u> teaches

the sheet type drawing file comprises one or more views and represents a

printed/plotted document. (paragraph [0039])

As per claim 10,

<u>Bondy</u> does not explicitly indicate "the obtaining a companion file further

comprises: defining a user definable category and value for project information; storing

said user definable category and value in the companion file".

However, <u>Halpert</u> discloses "the obtaining a companion file further comprises:

defining a user definable category and value for project information; storing said user

definable category and value in the companion file" (paragraph [0081]).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to combine <u>Bondy</u> and <u>Halpert</u> because using the steps of "the

obtaining a companion file further comprises: defining a user definable category and

value for project information; storing said user definable category and value in the

companion file" would have given those skilled in the art the tools to customize project

information. This gives the user the advantage of having control over how a project is

defined.

As per claims 11-20,

These claims are rejected on grounds corresponding to the arguments given

above for rejected claims 1-10 and are similarly rejected.

As per claims 21-30,

These claims are rejected on grounds corresponding to the arguments given

above for rejected claims 1-10 and are similarly rejected.

Response to Arguments

4.   Applicant's arguments filed 5/7/07 have been fully considered but they are not

persuasive.

With regards to Applicant's argument that <u>Bondy</u> in view of <u>Halpert</u> does not

disclose the preamble, it is stated in the MPEP that:

> "If the body of a claim fully and intrinsically sets forth all of the limitations of the
> claimed invention, and the preamble merely states, for example, the purpose or
> intended use of the invention, rather than any distinct definition of any of the
> claimed invention's limitations, then the preamble is not considered a limitation
> and is of no significance to claim construction. Pitney Bowes, Inc.v. Hewlett-
> Packard Co., 182 F.3d 1298, 1305, 51 USPQ2d 1161, 1165 (Fed. Cir. 1999)".
> (MPEP 2111.02 [R-3],Effect of Preamble)

Respectfully, since in the preamble of each independent claim states "for defining

a project", it is clear that the preamble merely states the purpose or intended use of the

invention (see also see MPEP § 2106 Section II(C), MPEP 2111.04 [R-3]).

With regards to Applicant's argument that <u>Bondy</u> in view of <u>Halpert</u> does not

disclose obtaining a project, creating a directory structure where the files are organized

into various folders based on the file content, and a companion file for the project where

this file has information used to create the directory structure and link the respective

files to the project, it is respectfully noted that Bondy discloses all of these limitations

(paragraphs [0018]-[0020]). First and foremost, it must be understood that the contents

of the files themselves is immaterial since the data is not made functional in the claims

and is just treated as any other type of data (see non-functional descriptive material,

MPEP 2106.01 [R-5]). Therefore, in view of this, Bondy discloses a project (paragraph

[0018], lines 1-5), creating a directory structure where files are organized into various

folders based on file content (paragraph [0018], lines 12-18 and paragraph [0019], lines

1-8), and a companion file for the project where this file has information used to create a

directory structure and link respective files to the project (companion file with metadata

tags to identify resources, paragraph [0019[, lines 1-8).

     With regards to Applicant's arguments concerning claims 2, 5 and 7, that Bondy

in view of Halpert does not disclose that a structure can be repeated within the project, it

is respectfully noted these are again simply non-functional descriptive material as in

claim 1 and the arguments for claim 1 fit these claims also, and therefore Bondy

discloses these limitations.

     With regards to Applicant's argument concerning claim 6, that Bondy in view of

Halpert does not disclose that a structure can be repeated within the project, it is

respectfully noted that Halpert discloses that a structure can be imported into a

matching structure (paragraph [0084]), and therefore Halpert discloses the limitation.

     With regards to Applicant's argument concerning claim 8, that Bondy in view of

Halpert does not disclose that a structure can be repeated within the project, it is

respectfully noted that <u>Halpert</u> discloses processing a project data file selected by a

user, using the appropriate processing type for the file (paragraph [0092]). Again, the

claim can be interpreted as directed towards most any type of data, and therefore

<u>Halpert</u> discloses the limitation.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

than SIX MONTHS from the mailing date of this final action.

The prior art made of record, listed on form PTO-892, and not relied upon is

considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Jay A. Morrison whose telephone number is (571) 272-

7112. The examiner can normally be reached on M-F 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Tim Vo can be reached on (571) 272-3642. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

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For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

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